

Act No. 603  
Public Acts of 2002  
Approved by the Governor  
December 20, 2002  
Filed with the Secretary of State  
December 20, 2002  
EFFECTIVE DATE: December 20, 2002

**STATE OF MICHIGAN  
91ST LEGISLATURE  
REGULAR SESSION OF 2002**

Introduced by Reps. Newell, Cassis, Woronchak, Meyer, Richardville and Faunce

# **ENROLLED HOUSE BILL No. 5403**

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 4 (MCL 208.4), as amended by 1999 PA 115.

*The People of the State of Michigan enact:*

Sec. 4. (1) "Casual transaction" means a transaction made or engaged in other than in the ordinary course of repeated and successive transactions of a like character, except that a transaction made or engaged in by a person that is incidental to that person's regular business activity is a business activity within the meaning of this act.

(2) "Commissioner" means the state commissioner of revenue.

(3) Except as otherwise provided in subsection (4), "compensation" means all wages, salaries, fees, bonuses, commissions, or other payments made in the taxable year on behalf of or for the benefit of employees, officers, or directors of the taxpayers. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes, payments to state and federal unemployment compensation funds, payments under the federal insurance contribution act and similar social insurance programs, payments, including self-insurance, for worker's compensation insurance, payments to individuals not currently working, payments to dependents and heirs of individuals because of current or former labor services rendered by those individuals, payments to a pension, retirement, or profit sharing plan, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payments of fees for the administration of health and welfare and noninsured benefit plans. Compensation does not include any of the following:

(a) Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers.

(b) Payments to an independent contractor.

(c) For tax years beginning after December 31, 1994, payments to state and federal unemployment compensation funds.

(d) For tax years beginning after December 31, 1994, the employer's portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, 26 U.S.C. 3101 to 3128, the railroad retirement tax act, chapter 22 of subtitle C of the internal revenue code, 26 U.S.C. 3201 to 3233, and similar social insurance programs.

(e) For tax years beginning after December 31, 1994, payments, including self-insurance payments, for worker's compensation insurance or federal employers' liability act insurance pursuant to chapter 149, 35 Stat. 65, 45 U.S.C. 51 to 60.

(4) For tax years that begin after December 31, 2003, for purposes of determining compensation of a professional employer organization, compensation includes payments by the professional employer organization to the officers and employees of an entity whose employment operations are managed by the professional employer organization. Compensation of the entity whose employment operations are managed by a professional employer organization does not include compensation paid by the professional employer organization to the officers and employees of the entity whose employment operations are managed by the professional employer organization. As used in this subsection, "professional employer organization" means an organization that provides the management and administration of the human resources and employer risk of another entity by contractually assuming substantial employer rights, responsibilities, and risk through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining the right of direction and control of employees' work, although this responsibility may be shared with the other entity.

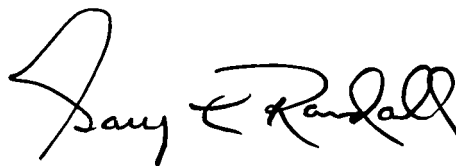
(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining the right to hire and fire employees.

(5) "Department" means the revenue bureau of the department of treasury.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved .....

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Governor.